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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

ARMINE SALMANYAN, Plaintiff and Appellant, v. ANRI OVSEPIAN, Defendant and Respondent.	B266719 (Los Angeles County Super. Ct. No. ED035198)

APPEAL from an order of the Superior Court of Los Angeles County. Ralph C. Hofer, Judge. Affirmed.

Law Offices of Randy W. Medina, Randy W. Medina; Law Offices of Kenneth M. Stern, and Kenneth M. Stern for Plaintiff and Appellant.

Matthew R. Bogosian for Defendant and Respondent.

Appellant appeals from the trial court's postjudgment order finding there were no omitted community property assets from the parties' 2006 dissolution judgment. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Properties

Appellant Armine Salmanyan and respondent Anri Ovsepian married in 1996. In 1999, they purchased two four-unit apartment buildings in Glendale, California, one at 544 West Lexington Drive (the Lexington Property) and one at 960 West Glenoaks Boulevard (the Glenoaks Property) (collectively the properties). They took title as "Husband and Wife as Joint Tenants."

On August 9, 2002, Anait Akopyan (Akopyan) purchased both properties from appellant and respondent for $80,000. She wired the money to appellant who was in Armenia, while respondent was in jail in Poland. Appellant, with respondent's consent, used the money to purchase a restaurant in Armenia, which she renamed Café Luna. Akopyan financed the purchase of the properties through loans in her name.

The Judgment

In 2006, appellant filed for divorce. During the divorce trial, appellant was asked by her attorney whether there was any community property to be divided. Appellant responded, "No." On August 1, 2006, the family law court entered a judgment of dissolution (Judgment), submitted by appellant's attorney, finding that "[t]here are no community nor quasi community property or debts to be disposed of by the court."

Repurchase

In 2013, respondent, who had since remarried, bought back the two apartment buildings from Akopyan. He took title to the Lexington Property as a "Married Man as his sole and separate property." He took title to the Glenoaks Property through Ani Holdings, Inc., a California corporation he owned. He testified that he paid for the properties in the form of having to "take care of the [lien] judgments and to pay off the second loans, which I negotiated."

Requests for Orders and Responses

More than seven years after the Judgment was entered, appellant filed on December 16, 2013, a request for order to set aside the provision in the Judgment finding there was no community property and for an award of 100 percent of the properties. In her supporting declaration, appellant stated that she had not seen the Judgment until June 2013 and was "shocked" to learn that it declared there was no community property.

Concurrently with her request for order, appellant filed a motion and declaration for joinder of both Akopyan and Ani Holdings, Inc., that included a complaint to set aside transfer of community property, for an accounting, a constructive trust, declaratory and injunctive relief and attorney fees and costs.

Before her request for order and motion were adjudicated, appellant changed attorneys and, on June 25, 2014, appellant filed an amended request for order limiting her request for relief to an order declaring the properties be deemed omitted community property assets subject to division, pursuant to Family Code section 2556.

Akopyan filed an answer to the complaint in joinder, and a declaration, stating that she purchased the properties in 2002, she paid all mortgage payments, property taxes, insurance and other expenses. Akopyan also declared that in 2003, appellant moved into a unit at the Lexington Property with a roommate and paid rent to Akopyan, who gave appellant rent receipts. Appellant also signed a two-year lease agreement in 2003. In 2011, the properties went into foreclosure because Akopyan could no longer afford the mortgages. She offered to sell the properties to respondent. He agreed to take over the existing mortgage loans and judgment liens on the properties, and to refinance the loans in his name within one year.

A declaration from appellant's former roommate confirmed that she and appellant rented the unit in the Lexington Property and split the rent. At no time did appellant indicate that she had an ownership interest in the Lexington Property.

The Hearing

The evidentiary hearing on appellant's request for order took place over four days. Appellant, respondent, Akopyan, appellant's handwriting expert, and respondent's friend

testified. Appellant's handwriting expert opined that it was "highly probable" that appellant's and respondent's signatures on the grant deeds for the properties were forged.

Admitted into evidence was a letter from the Social Security Office summarizing appellant's December 14, 2006 application for benefits, in which appellant claimed to own only a vehicle, checking and savings accounts and no "other type of resource." The trial court ended the line of questioning by appellant's attorney on the payment of rent. The court repeatedly stated that appellant might be subjecting herself to possible welfare fraud and criminal liability. Appellant apparently made other similar requests for government assistance in which she identified herself as a renter.

Statement of Decision

The trial court issued a 10-page statement of decision, denying appellant's request for order and including the following findings: The properties were not community property at the time of the Judgment and therefore not omitted assets to be divided; the properties were sold to Akopyan in 2002, who was a bona fide purchaser for value; the grant deeds transferring the properties to Akopyan were forged; the deeds are voidable, rather than void *ab initio*, but there is no basis for cancellation based on principles of estoppel, ratification and consent; appellant's testimony was not credible; and appellant's request for order is barred by the statutes of limitations in Code of Civil Procedure sections 318 and 319.

DISCUSSION

To begin, we are somewhat baffled by the filing of this judicial action, since it paints appellant in a most unfavorable light, as discussed below.

I. Substantial Evidence Supports the Trial Court's Order Denying the Request to Deem the Properties Omitted Assets

We presume a trial court's factual findings are supported by substantial evidence and it is the appellant's burden to show they are not. (*Estates of Collins & Flowers* (2012) 205 Cal.App.4th 1238, 1246.) "[W]e view the evidence in a light favorable to respondent, according the benefit of every reasonable inference and resolving all conflicts in favor of the judgment below." (*In re Marriage of Zaentz* (1990) 218 Cal.App.3d 154,

162–163.) All issues of credibility are within the province of the trier of fact alone. (*Id*. at p. 163.)

Here, there is substantial evidence to support the trial court's finding that there are no omitted community property assets left to be divided. The evidence shows all of the following: (1) In 2006, when appellant filed for divorce, she was represented by counsel. Appellant testified under oath during the divorce proceeding that there was no community property. (2) When the properties were sold to Akopyan in 2002, Akopyan paid $80,000 for the properties. Appellant, with respondent's consent, used the money to buy a restaurant in Armenia. (3) In 2003, appellant moved into an apartment unit in the Lexington Property and paid rent on the unit to Akopyan. (4) Appellant also signed a lease agreement on the very property she now claims she actually owned. (5) Appellant applied for government assistance, stating that she did not own any property other than a vehicle and a checking and savings account and identifying herself as a renter. (6) Akopyan took out mortgages on the properties and required respondent to refinance the properties in his name as a condition of selling them back to him. (7) By 2011, the properties were in foreclosure, yet appellant did nothing to attempt to resolve the foreclosures.

While appellant puts a different spin on the evidence, claiming for example that she thought her rent payments were mortgage payments, the trial court expressly found that appellant's testimony was "not credible." We are bound by this finding, and therefore ignore any evidence or interpretation to the contrary.

Now, 10 years after appellant obtained a divorce and 14 years after the properties were sold to Akopyan, appellant inexplicably asks us to find that the properties were actually omitted community property assets. If appellant believed, as she claims, that she owned the Lexington Property on which she paid rent prior to her divorce, she arguably committed fraud on the family law court when she obtained her divorce and testified under oath that there was no community property. For the same reason, appellant may also have subjected herself to potential criminal liability in her claims for various government assistance, as the trial court here noted.

II. Equity

Appellant nevertheless argues that the trial court's order denying her request for order should be reversed because the grant deeds transferring the properties were forged. According to appellant, once the trial court found the deeds were forged, it erred by finding the deeds were merely voidable rather than void as a matter of law. While it is true that a forged deed ordinarily does not transfer good title, it is also true that a party's own conduct may estop her from asserting the invalidity of the deed. (*Estates of Collins & Flowers*, *supra,* 205 Cal.App.4th at p. 1247.)

The trial court here relied on *Crittenden v. McCloud* (1951) 106 Cal.App.2d 42 (*Crittenden*) in finding that appellant was estopped to claim the deeds were void. In that case, a criminal client and his wife owned property in joint tenancy. While in prison, the client's lawyer forged the client's signature on a deed conveying the property to the wife alone. (*Id*. at pp. 45–46.) She sold the property to defendant. When the client was out of prison, his wife cashed the defendant's check for payment of the property and the client and his wife used the money to purchase new property. At no time did the client disclose to the defendant that the defendant's deed was forged, although the client was aware of the forgery. Subsequently, the client conveyed to his lawyer a one-half interest in the property sold to the defendant. The lawyer then sought to quiet title to the property. The appellate court concluded that under these circumstances, the plaintiff lawyer was estopped from denying the validity of the forged deed. (*Id*. at pp. 48–50.)

Crittenden, in turn, relied on *Merry v. Garibaldi* (1941) 48 Cal.App.2d 397 (*Merry*). There, when the plaintiff learned that a relative had forged her name on documents to encumber her property, she said nothing to the defendants who had loaned money on the property. The defendants lost the opportunity to sue a bank for wrongfully honoring a check. (*Id*. at pp. 400–401.) The appellate court concluded that the plaintiff was estopped from asserting the forgeries based on her agreement to conceal the forgeries. (*Id*. at p. 401.)

In *Estates of Collins & Flowers, supra*, 205 Cal.App.4th 1238, the trial court also relied on *Merry* and *Crittenden* in finding that a party, who did not himself forge a deed,

by his actions and omissions in connection with the title to the property had taken advantage of the forgery and thus had unclean hands. (*Id*. at p. 1249.) The appellate court agreed. (*Id*. at p. 1242.)

Likewise, here, while appellant herself did not forge the deeds, she, at the very least, ratified the transactions by accepting the proceeds, i.e., Akopyan's $80,000 payment. Appellant then used that money to purchase a restaurant in Armenia. She also ratified the transactions by later paying rent on the Lexington Property to Akopyan and identifying herself to third parties as a renter to obtain government assistance.

Under the circumstances here, the trial court rightly found that appellant was estopped from challenging the validity of the deeds.

III. Admission of Evidence

Appellant contends the trial court abused its discretion in refusing to admit letters allegedly written by respondent to her and others and translated from Armenian. There is no merit to this contention.

First, in her opening brief, appellant does not cite to the letters in the record or quote from them. Appellant's failure to do so precludes her from meeting her appellate burden of proving trial court error. (See *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246 ["'[I]f a party fails to support an argument with the necessary citations to the record, . . . the argument [will be] deemed to have been waived. [Citation.]'")

Second, in her opening brief, appellant argues that the letters were relevant and would not have unduly consumed time. But the reporter's transcript shows the trial court excluded the letters based not just on relevance but also on "authenticity, and lack of certified, court approved translator." Appellant does not discuss these latter bases, other than to say that the court refused to allow respondent to authenticate them. We note the reporter's transcript reflects that respondent's counsel informed the court that the copy of the first letter appellant attempted to admit was not the same one that had been previously provided: "This wasn't the letter that they provided. They provided us with different translation, with different translator. We took deposition and we found that the translation was fraudulent." Respondent explains in his brief how the excluded letters

were actually more helpful to his case than to appellant's. Appellant disagrees with this point in her reply brief. Regardless of the relevance, appellant did not meet her fundamental burden of establishing the letters were authentic and that the translations were accurate. The trial court did not err in excluding them.

IV. Statues of Limitations

Appellant argues the trial court erred in finding that her omitted assets request was barred by the five-year statutes of limitation in Code of Civil Procedure sections 318 and 319.[1]

Appellant's argument rests on her theory that because the deeds were forged, they were void *ab initio*, such that she never lost ownership of the properties, and thus *no* statute of limitations applies. We have already rejected appellant's void versus voidable argument. Therefore, in the absence of a legal finding of ownership, appellant was required to provide evidence that she was "seised or possessed" of the properties either within five years of her request for order (filed in 2014), pursuant to Code of Civil Procedure section 318, or within five years of the forgeries (in 2002), pursuant to Code of Civil Procedure section 319.

There is no evidence that appellant had anything to do with the Glenoaks Property after it was sold to Akopyan in 2002. With respect to the Lexington Property, the evidence showed merely that appellant rented one of the four units at the property from 2003 through 2005. But, as even appellant acknowledges in her reply brief, "seised" means having an ownership interest. Likewise, "possess" is defined as "to have or own

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[1] Code of Civil Procedure section 318 provides: "No action for the recovery of real property, or for the recovery of the possession thereof, can be maintained, unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seised or possessed of the property in question, within five years before the commencement of the action."

Code of Civil Procedure section 319 provides: "No cause of action, or defense to an action, arising out of the title to real property, or to rents or profits out of the same, can be effectual, unless it appear that the person prosecuting the action, or making the defense, or under whose title the action is prosecuted, or the defense is made, or the ancestor, predecessor, or grantor of such person was seised or possessed of the premises in question within five years before the commencement of the act in respect to which such action is prosecuted or defense made."

(something)." (Merriam-Webster's Online Dict. <http://www.merriam-webster.com/dictionary/possess> [as of Nov. 8, 2016].) Appellant did not "own" the Lexington Property. She points to no evidence that she maintained the property, paid vendors who serviced the property, paid the mortgages, property taxes or insurance, or took any other steps consistent with ownership.

Accordingly, the trial court did not err in finding that her request for order was time-barred.

V. Statement of Decision

In her final argument, appellant asserts the trial court's statement of decision was deficient. In this regard, she lists 34 claimed errors consisting of either "erroneous" findings by the court or failures by the court to make certain findings. Below, appellant filed 12 objections to respondent's proposed statement of decision. We do not address issues not raised below. (See *Giraldo v. Department of Corrections & Rehabilitation* (2008) 168 Cal.App.4th 231, 251.) Moreover, in her opening brief, appellant merely concludes that "[b]ecause the Statement of Decision contains material omissions, reversal is required." Because appellant makes no reasoned argument why any of her alleged erroneous findings and omissions were necessary, she has failed to meet her appellate burden of demonstrating trial court error. (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699–700 ["When an issue is unsupported by pertinent or cognizable legal argument it may be deemed abandoned and discussion by the reviewing court is unnecessary"].)

DISPOSITION

The postjudgment order is affirmed. Respondent is entitled to his costs on appeal.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
BOREN

_____, J.
CHAVEZ